



THE LAW OFFICES OF
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February 6, 2024

VIA ECF FILING

Honorable Claire C. Cecchi
United States District Judge
for the District of New Jersey
50 Walnut Street
Newark, NJ 07101

Re: Polanco v. NJ Turnpike Auth et al
Docket # 2:23-cv-22642

Dear Judge Cecchi:

I represent the plaintiff in the above matter. I am writing this letter to respectfully request a pre-motion conference in the above matter.

Before the filing of the motion by the State of New Jersey I had multiple conversations with Angela Cifelli, Esq., Deputy Attorney General, wherein Ms. Cifelli asked for additional time to file an Answer on behalf of the State of New Jersey and the New Jersey Department of Transportation (collectively "NJDOT"). During those conversations, Ms. Cifelli mentioned that the NJDOT did not "own" the subject roadway and I explained that our theory of responsibility extended beyond mere ownership as we believe there is some evidence that the NJDOT, at least, shared responsibility for receiving complaint calls pertaining to the road in question.

At no time was there a discussion of the Eleventh Amendment and I was not aware of the implication of the Amendment until reading the current motion. Immediately upon reading the motion papers I reached out to Ms. Cifelli to enter into a stipulation of dismissal without prejudice and leave to refile the claims against the NJDOT in the appropriate Court in the State of New Jersey. This morning Ms. Cifelli advised that the Attorney General's Office was unwilling to enter into a stipulation granting leave to refile in state court and would prefer to have Your Honor decide the motion. I explained to Ms. Cifelli that the Attorney General cannot argue that this Honorable Court lacks jurisdiction over the State of New Jersey but then ask Your Honor to exercise jurisdiction to the limited extent of deciding the substantive motion regarding the allegations of negligence in this litigation.

We are simply requesting that the NJDOT get exactly what they are entitled to, namely a litigation in the appropriate Court in the State of New Jersey. If the Attorney General's Office is unwilling to enter into a stipulation, then we are respectfully requesting a briefing schedule so we can present Your Honor with a legal brief to argue that upon deciding that the Eleventh Amendment precludes this litigation that this Honorable Court has no jurisdiction to decide any other issues in the subject motion. We would also be seeking to file a cross-motion seeking dismissal without prejudice pursuant to FRCP 41.

The parties remain available at the Court's convenience to address any questions or concerns.

Respectfully,

Joseph D. Monaco, Esq.

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